

EXHIBIT 48
DATE 3/27/2013
SB 629

Circular No. 102
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

LAWS AND REGULATIONS

RELATING TO

THE RECLAMATION OF ARID LANDS
BY THE UNITED STATES

APPROVED APRIL 29, 1912



WASHINGTON
GOVERNMENT PRINTING OFFICE
1912

of water in, to, or from any interstate stream or the waters thereof: *Provided*, That the right to the use of water acquired under the provisions of this act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right.

Sec. 9: That it is hereby declared to be the duty of the Secretary of the Interior in carrying out the provisions of this act, so far as the same may be practicable and subject to the existence of feasible irrigation projects, to expend the major portion of the funds arising from the sale of public lands within each State and Territory hereinafter named for the benefit of arid and semiarid lands within the limits of such State or Territory: *Provided*, That the Secretary may temporarily use such portion of said funds for the benefit of arid or semiarid lands in any particular State or Territory hereinafter named as he may deem advisable, but when so used the excess shall be restored to the fund as soon as practicable, to the end that ultimately, and in any event, within each ten-year period after the passage of this act, the expenditures for the benefit of the said States and Territories shall be equalized according to the proportions and subject to the conditions as to practicability and feasibility aforesaid.

Sec. 10: That the Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this act into full force and effect.

Approved, June 17, 1902 (32 Stat., 388).

An Act Authorizing the use of earth, stone, and timber on the public lands and forest reserves of the United States in the construction of works under the national irrigation law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying out the provisions of the national irrigation law, approved June seventeenth, nineteen hundred and two, and in constructing works thereunder, the Secretary of the Interior is hereby authorized to use and to permit the use by those engaged in the construction of works under said law, under rules and regulations to be prescribed by him, such earth, stone, and timber from the public lands of the United States as may be required in the construction of such works, and the Secretary of Agriculture is hereby authorized to permit the use of earth, stone, and timber from the forest reserves of the United States for the same purpose, under rules and regulations to be prescribed by him.

Approved, February 8, 1905 (33 Stat., 706).

An Act to provide for the covering into the reclamation fund certain proceeds of sales of property purchased by the reclamation fund.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be covered into the reclamation fund established under the act of June seventeenth, nineteen hundred and two, known as the reclamation act, the proceeds of the sales of material utilized for temporary work and structures in connection with the operations under the said act, as

Sec. 9 of this act repealed by act of June 25, 1910.

well as of the sales of all other condemned property which had been purchased under the provisions thereof, and also any moneys refunded in connection with the operations under said reclamation act.

Approved, March 3, 1905 (33 Stat., 1032).

An Act Providing for the withdrawal from public entry of lands needed for townsite purposes in connection with irrigation projects under the reclamation act of June seventeenth, nineteen hundred and two, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may withdraw from public entry any lands needed for townsite purposes in connection with irrigation projects under the reclamation act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes.

Sec. 2: That the lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisal and sale, and the proceeds of such sales shall be covered into the reclamation fund.

Sec. 3: That the public reservations in such townsites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they will be used forever for public purposes.

Sec. 4: That the Secretary of the Interior shall, in accordance with the provisions of the reclamation act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken.

Sec. 5: That whenever a development of power is necessary for the irrigation of lands under any project undertaken under the said reclamation act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the money derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: *Provided*, That no lease shall be made of such surplus power or power privilege as will impair the efficiency of the irrigation project.

Approved, April 16, 1906 (34 Stat., 116).

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the provisions of the act entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, be, and the same are hereby, extended so as to include and apply to the State of Texas.

Approved, June 12, 1906 (34 Stat., 259).

An Act Providing for the subdivision of lands under the reclamation act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in the opinion of the Secretary of the Interior, by reason of market conditions and the special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family on lands to be irrigated under the provisions of the act of June seventeenth, nineteen hundred and two, known as the reclamation act, he may fix a lesser area than forty acres as the minimum entry and may establish farm units of not less than ten nor more than one hundred and sixty acres. That whenever it may be necessary, for the purpose of accurate description, to further subdivide lands to be irrigated under the provisions of said reclamation act, the Secretary of the Interior may cause subdivision surveys to be made by the officers of the Reclamation Service, which subdivisions shall be rectangular in form, except in cases where irregular subdivisions may be necessary in order to provide for practicable and economical irrigation. Such subdivisions surveys shall be noted upon the tract books in the General Land Office, and they shall be paid for from the reclamation fund: *Provided*, That an entryman may elect to enter under said reclamation act a lesser area than the minimum limit in any State or Territory.

Sec. 2. That wherever the Secretary of the Interior, in carrying out the provisions of the reclamation act, shall acquire by relinquishment lands covered by a bona fide unperfected entry under the land laws of the United States, the entryman upon such tract may make another and additional entry, as though the entry thus relinquished had not been made.

Sec. 3. That any townsite heretofore set apart or established by proclamation of the President, under the provisions of sections twenty-three hundred and eighty and twenty-three hundred and eighty-one of the Revised Statutes of the United States, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of the act of Congress approved April sixteenth, nineteen hundred and six, entitled "An act providing for the withdrawal from public entry of lands needed for townsite purposes in connection with irrigation projects under the reclamation act of June seventeenth, nineteen hundred and two, and for other purposes;" and all necessary expenses incurred in the appraisal and sale of lands embraced within any such townsite shall be

paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund.

Sec. 5. That where any bona fide desert-land entry has been or may be embraced within the exterior limits of any land withdrawal or irrigation project under the act entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, and the desert-land entryman has been or may be directly or indirectly hindered, delayed, or prevented from making improvements or from reclaiming the land embraced in any such entry by reason of such land withdrawal or irrigation project, the time during which the desert-land entryman has been or may be so hindered, delayed, or prevented from complying with the desert-land law shall not be computed in determining the time within which such entryman has been or may be required to make improvements or reclaim the land embraced within any such desert-land entry: *Provided*, That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements heretofore made on any such desert-land entry of which proof has been filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry, the entryman shall thereupon comply with all the provisions of the aforesaid act of June seventeenth, nineteen hundred and two, and shall relinquish all land embraced within his desert-land entry in excess of one hundred and sixty acres, and as to such one hundred and sixty acres retained, he shall be entitled to make final proof and obtain patent upon compliance with the terms of payment prescribed in said act of June seventeenth, nineteen hundred and two, and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said reclamation act.

Approved, June 27, 1906 (34 Stat., 519).

An Act Providing for the reappraisalment of unsold lots in the town sites on reclamation projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior is hereby authorized, whenever he may deem it necessary, to reappraise all unsold lots within town sites on projects under the reclamation act heretofore or hereafter appraised under the provisions of the act approved April sixteenth, nineteen hundred and six, entitled "An act providing for the withdrawal from public entry of lands needed for town site purposes in connection with irrigation projects under the reclamation act of June seventeenth, nineteen hundred and two, and for other purposes," and the act approved June twenty-seventh, nineteen hundred and six, entitled "An act providing

until the Secretary of the Interior shall have established the unit of acreage and fixed the water charges and the date when the water can be applied and made public announcement of the same.

Sec. 6. That section nine of said act of Congress, approved June seventeenth, nineteen hundred and two, entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," is hereby repealed.

Approved, June 25, 1910 (36 Stat., 835).

An Act Granting leaves of absence to homesteaders on lands to be irrigated under the provisions of the act of June seventeenth, nineteen hundred and two.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all qualified entrymen who have heretofore made bona fide entry upon lands proposed to be irrigated under the provisions of the act of June seventeenth, nineteen hundred and two, known as the national irrigation act, may, upon application and a showing that they have made substantial improvements, and that water is not available for the irrigation of their said lands, within the discretion of the Secretary of the Interior, obtain leave of absence from their entries until water for irrigation is turned into the main irrigation canals from which the land is to be irrigated: *Provided*, That the period of actual absence under this act shall not be deducted from the full time of residence required by law.

Approved, June 25, 1910 (36 Stat., 864).

An Act To provide for the sale of lands acquired under the provisions of the reclamation act and which are not needed for the purposes of that act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in the opinion of the Secretary of the Interior any lands which have been acquired under the provisions of the act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), commonly called the "reclamation act," or under the provisions of any act amendatory thereof or supplementary thereto, for any irrigation works contemplated by said reclamation act are not needed for the purposes for which they were acquired, said Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons, to be appointed by him, and thereafter to sell the same for not less than the appraised value at public auction to the highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land.

Sec. 2. That upon payment of the purchase price, the Secretary of the Interior is authorized by appropriate deed to convey all the right, title, and interest of the United States of, in, and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: *Provided*, That not over one hundred and sixty acres shall be sold to any one person.

Sec. 3. That the moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which such lands had been acquired.

Approved, February 2, 1911 (36 Stat., 895).

An Act To authorize the Secretary of the Interior to withdraw public notices issued under section four of the reclamation act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior may, in his discretion, withdraw any public notice heretofore issued under section four of the reclamation act of June seventeenth, nineteen hundred and two, and he may agree to such modification of water-right applications heretofore duly filed or contracts with water users' associations and others, entered into prior to the passage of this act, as he may deem advisable, or he may consent to the abrogation of such water-right applications and contracts, and proceed in all respects as if no such notice had been given.

Approved, February 13, 1911 (36 Stat., 902).

An Act To amend section five of the act of Congress of June twenty-fifth, nineteen hundred and ten, entitled "An act to authorize advances to the 'reclamation fund,' and for the issue and disposal of certificates of indebtedness in reimbursement thereof, and for other purposes."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section five of an act entitled "An act to authorize advances to the 'reclamation fund,' and for the issue and disposal of certificates of indebtedness in reimbursement thereof, and for other purposes," approved June twenty-fifth, nineteen hundred and ten (Thirty-sixth Statutes at Large, page eight hundred and thirty-five), be, and the same hereby is, amended as follows:

"Sec. 5. That no entry shall be hereafter made and no entryman shall be permitted to go upon lands reserved for irrigation purposes until the Secretary of the Interior shall have established the unit of acreage and fixed the water charges and the date when the water can be applied and make public announcement of the same: *Provided*, That where entries made prior to June twenty-fifth, nineteen hundred and ten, have been or may be relinquished in whole or in part, the lands so relinquished shall be subject to settlement and entry under the homestead law as amended by an act entitled 'An act appropriating the receipts from the sale and disposal of the public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands,' approved June seventeenth, nineteen hundred and two (Thirty-second Statutes at Large, page three hundred and eighty-eight)."

Approved, February 18, 1911 (36 Stat., 917).

An Act To authorize the Government to contract for impounding, storing, and carriage of water, and to cooperate in the construction and use of reservoirs and canals under reclamation projects, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any project, the Secretary of the Interior, preserving a first right to lands and entrymen under the

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tenance of irrigation works, but which may possibly be irrigated from such works.

10. After lands have been withdrawn under the first form they can not be entered, selected, or located in any manner so long as they remain so withdrawn, and all applications for such entries, selections, or locations should be rejected and denied, regardless of whether they were presented before or after the date of such withdrawal. (See John J. Maney, 35 L. D., 250.)

11. Lands withdrawn under the second form and subject to entry can be entered only under the homestead laws and subject to the provisions, limitations, charges, terms, and conditions of the reclamation act, and all applications to make selections, locations, or entries of any other kind on such lands should be rejected, regardless of whether they are presented before or after the lands are withdrawn, except that where settlement rights were acquired prior to the withdrawal and have been diligently prosecuted and the homestead law fully complied with, the settler will be entitled to make and complete his entry as if it had been made before the withdrawal. (See Wm. Boyle, 38 L. D., 603.)

12. Withdrawals made under either of these forms do not defeat or adversely affect any valid entry, location, or selection which segregated and withheld the lands embraced therein from other forms of appropriation at the date of such withdrawal; and all entries, selections, or locations of that character should be permitted to proceed to patent or certification upon due proof of compliance with the law in the same manner and to the same extent to which they would have proceeded had such withdrawal not been made, except as to lands needed for construction purposes. All lands, however, taken up under any of the land laws of the United States subsequent to October 2, 1888, are subject to right of way for ditches or canals constructed by authority of the United States (act of August 30, 1890, 26 Stat., 391; circular approved by Department July 22, 1903). All entries made upon the lands referred to are subject to the following proviso of the act cited:

"That in all patents for lands hereafter taken up under any of the land laws of the United States or on entries or claims validated by this act west of the one hundredth meridian it shall be expressed that there is reserved from lands in said patent described a right of way thereon for ditches or canals constructed by the authority of the United States.

13. Should a homestead entry embrace land that is needed in whole or in part for purposes contemplated by said proviso the land would be taken for such purpose, and the entryman would have no claim against the United States for the same.

14. All withdrawals become effective on the date upon which they are ordered by the Secretary of the Interior, and all orders for restorations on the date they are received in the local land office unless otherwise specified in the order. (George B. Pratt et al., 38 L. D., 146.)

15. Upon the cancellation of a homestead entry covering lands embraced within a withdrawal under the reclamation act such withdrawal becomes effective as to such lands without further order. (See Cornelius J. MacNamara, 33 L. D., 520.)

16. Where the Secretary of the Interior by the approval of farm-unit plats has determined, or may determine, that the lands design-

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ated thereon are irrigable, the filing of such plats in the General Land Office and in the local land offices is to be regarded as equivalent to an order withdrawing such lands under the second form, and as an order changing to the second form any withdrawals of the first form then effective as to any such tracts. This applies to all areas shown on the farm-unit plats as subject to entry under the provisions of the reclamation act or as subject to the filing of water-right applications. Upon receipt of such plats appropriate notations of the change of form of withdrawal are to be made in accordance therewith upon the records of the General Land Office and of the local land offices.

17. In the event any lands embraced in any entry on which final proof has not been offered, or in any unapproved or uncertified selection, are needed in the construction and maintenance of any irrigation works (other than for right of way for ditches or canals reserved under act of Aug. 30, 1890) under the reclamation act, the Government may cancel such entry or selection and appropriate the lands embraced therein to such use, after paying the value of the improvements thereon and the enhanced value of such lands caused by such improvements.

18. Uncompleted claims to lands withdrawn under the provisions of the reclamation act and determined to be needed for construction of irrigation works in connection with a project that has been found practicable should not be allowed to be perfected, but should remain in the same status as existed at the time the determination was made, and the rights of the claimants adjusted upon the basis of that status. (Opinion of Asst. Atty. General, 34 L. D., 421.)

19. Where the owners of the improvements mentioned in paragraph 17 shall fail to agree with the representative of the Government as to the amount to be paid therefor, the same shall be acquired by condemnation proceedings under judicial process, as provided by section 7 of the reclamation act.

20. Inasmuch as every entry within the limits of a withdrawal under the reclamation act is subject to conformation to an established farm unit, improvements placed upon the different subdivisions by the entryman prior to such conformation are at his risk. (Jerome M. Higman, 37 L. D., 718.) They should be confined to one legal subdivision until the entry is conformed. In readjusting such an entry the Secretary is not required to confine the farm unit to the limits of the entry, but may combine any legal subdivision thereof with a contiguous tract lying outside of the entry so as to equalize in value the several farm units. (Idem.) The act of June 27, 1906, supra, authorizes the Secretary of the Interior to fix a lesser area than 40 acres as a farm unit when, "by reason of market conditions and special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family" or when necessary "in order to provide for practical and economical irrigation."

ADDITIONAL ENTRIES.

21. A person who has entered a farm unit within a project can not make an additional homestead entry. One who has made homestead entry for less than 160 acres outside of a reclamation project is disqualified from making an additional entry of a farm unit within a

reclamation project, which farm unit is the equivalent of a homestead entry of 160 acres of land outside of the reclamation project.

22. Where, however, the first or original homestead entry was made subject to the restrictions and conditions of the reclamation act, any entry additional thereto would be likewise subject to the same restrictions and conditions, and in such cases additional entries may be allowed within reclamation projects under acts authorizing additional entries, except where farm units have been established, prior to the filing of the applications. Both entries so allowed are subject to the same adjustment to one farm unit as if the entire tract had been included in the first entry. (Henry W. Williamson, 38 L. D., 233.)

CONTESTS.

23. No private contest will be allowed against any entry embracing land included within the area of any first form withdrawal or land reserved for irrigation purposes, commonly known as land under the second form of withdrawal, until the Secretary of the Interior shall have established the unit of acreage and fixed the water charges, and the date when the water can be applied and made public announcement of the same. In cases where contest has been allowed as to entries on second form lands, the act of Congress approved June 25, 1910 (36 Stats. 835), precludes entry by successful contestants until the lands are restored to the public domain or platted to farm units and covered by public notice under section 4 of the reclamation act. In all cases where a contest has been allowed prior to the withdrawal of the lands, or in the case of entries on second form lands, prior to the approval of the act of June 25, 1910, the withdrawal attaches to the lands involved immediately on cancellation of the entry and no rights can be obtained by the contestant in the event that the entry is canceled under the contest proceedings prior to the vacation of the order of withdrawal and opening of the lands to entry. In all cases where a preference right has been gained by virtue of a successful contest, terminated before the withdrawal of the land or the passage of the said act, the successful contestant may exercise his right and make entry at any time within thirty days from notice that the lands involved have been restored to the public domain or covered by public notice and made subject to entry, but, in the latter event, his entry must be made subject to the limitations, charges, and conditions imposed by the reclamation act.

24. Any entry of land embraced within the area of a second form withdrawal may be contested after farm units have been established covering such entry and public notice has issued in connection with the same, fixing the water charges and the date when water can be applied, and if at the date of entry by the successful contestant the lands have not been released from the withdrawal under the provisions of the reclamation act, his entry will be subject to the limitations, charges, and conditions imposed by that act.

LEAVE OF ABSENCE.

25. When homestead entrymen within irrigation projects file in the local land office applications for leave of absence under the provisions of the act of June 25, 1910, the register and receiver will make proper notation of the same on their records and, at once, by special

letter, forward the application, together with their recommendation thereon, to the General Land Office for action.

26. These applications for leave of absence should be in the form of an affidavit, duly corroborated by two witnesses, contain a specific description of the land, show the good faith of the applicant, and set forth in detail the character, the extent, and the approximate value of the improvements placed on the lands, which must be such as to satisfy the requirements of the law that the entryman has made substantial improvements, and the applicant must show, as a matter of fact, that water is not available for the irrigation thereof.

27. When sufficient showing is made in cases coming within the provisions of the law, leave of absence will be granted until such time as water for irrigation is turned into the main irrigation canals from which the land is to be irrigated or, in the event that the project is abandoned by the Government, until the date of notice of such abandonment and the restoration to the public domain of the lands embraced in the entry.

28. Attention is directed to the provision that "the period of actual absence shall not be deducted from the full time of residence required by law." The effect of the granting of leave of absence under this act is to protect the entry from contest for abandonment and, by the necessary implication of the act, the period of seven years within which the entryman is required to submit final five year proof will be extended and the entry will not be subject to cancellation for failure to submit proof until seven years from the date of entry, exclusive of the period for which leave of absence may be granted.

ASSIGNMENTS.

29. Under the provisions of the act of June 23, 1910 (36 Stat., 592) persons who have made or may make homestead entries subject to the reclamation act may assign their entries in their entirety at any time after filing in this office satisfactory proof of residence, improvements, and cultivation for the five years required by the ordinary provisions of the homestead law. The act also provides for the assignment of homestead entries in part, but such assignments, if made prior to the establishment of farm units, must be made in strict accordance with the legal subdivisions of the public survey, and if made after such units are established must conform thereto, except as hereinafter provided.

30. In cases where the entry involves two or more farm units, the entryman may file an election as to which farm unit he will retain, and he may assign and transfer to a qualified assignee any farm unit or farm units entirely embraced within the original entry. He may also assign parts of farm units included in his entry, provided the assignee has an entry covering or obtains an assignment of the remainder of such unit. If an election by the entryman to conform to a farm unit be filed and no assignment made of the remainder of the entry, the entry will be conformed to the farm unit selected for retention and canceled as to the remainder.

31. Where it is desired to assign a part of an established farm unit, an application for the amendment and subdivision of such unit should be filed with the project engineer, and the assignment, with accompanying affidavit and supplemental water right application, should be filed in the local land office.

thereafter be required to continue such residence and cultivation, and they may make final proof of reclamation at any time when they can also make proof of the necessary residence, cultivation, and improvement for five years, but no final certificate or patent will issue until all fees, commissions, and construction charges, including operation and maintenance charges due at the time of payment, have been paid in full. The entire building charge and such installments of the operation and maintenance charges as are then due may be paid at any time after the entry has been conformed to a farm unit, and prior to the time on which they otherwise fall due under the terms of the public notice.

43. Soldiers and sailors of the war of the rebellion, the Spanish-American War, or the Philippine insurrection, and their widows and minor orphan children who are entitled to claim credit for the period of the soldier's service under the homestead laws, will be allowed to claim credit in connection with entries made under the reclamation act, but will not be entitled to receive final certificate or patent until all the water-right charges have been paid in full and the requirements as to reclamation have been met.

44. Upon the tendering to registers and receivers of homestead proofs in entries subject to the reclamation act, they will accept only the testimony fees for "reducing testimony to writing and examining and approving testimony," and will not accept final commissions payable under such entries until proof is submitted showing full compliance with all requirements of the act of June 17, 1902, including the payment of all reclamation charges.

45. On September 9, 1910, the Acting Secretary of the Interior approved a form of water-right certificate to be signed by the Commissioner of the General Land Office and given to water-right applicants upon submission of satisfactory proof of full compliance with the requirements of the reclamation act, and two forms of final affidavit, corroborated, to be submitted, the first by the owner of private land reclaimed under the act of June 17, 1902 (32 Stat., 388), and the second by the homestead entrymen under the provisions of said act (38 L. D., 197). These forms have been printed as forms 4-193, 4-068, and 4-073, respectively, and a supply of the last two forms has been furnished registers and receivers, who will require all water users desiring to make final proof of compliance with the requirements of the reclamation act as to reclamation of one-half of the irrigable lands in their entries or water rights and the payment of the estimated building charges and assessed operation and maintenance charges, to submit affidavit, duly corroborated by two witnesses, on the appropriate form.

46. To establish compliance with the clause of the reclamation act that requires reclamation of at least one-half of the irrigable area of an entry made subject to the provisions of the act, entrymen will be required to make proof showing that the land has been cleared of sagebrush or other incumbrance and leveled, that sufficient laterals have been constructed to provide for the irrigation of the required area, that the land has been put in proper condition and has been watered and cultivated, and that the growth of at least one satisfactory crop has been secured thereon, but the securing of an actual and satisfactory growth of orchard trees shall likewise be regarded as satisfactory reclamation. When proof of reclamation of one-half the irrigable

area is made in advance of full payment of the charges, evidence of satisfactory proof thereof will be issued by the General Land Office.

47. Upon the filing of affidavit on form 4-068 or 4-073 as proof of compliance with the requirements of the reclamation act the register and receiver will forward copy thereof to the engineer in charge of the project who will make prompt report thereon. Upon receipt of such report in case of homestead entries upon which final proof has been accepted by this office, the register and receiver will issue final certificate of compliance with the homestead laws and forward the same with the affidavit and engineer's report to this office with such recommendation as they deem proper. When such affidavit appears sufficient, and the case is otherwise regular, final water-right certificate (Form 4-193) will issue and the case will be approved for patent. In the case of water-right contracts for lands in private ownership, final water-right certificate will be issued by this office where the final affidavit is found to be sufficient, and the certificate so issued will constitute full evidence of the water user's right to the use of water appurtenant to the lands covered by his contract.

REPORTS ON FINAL PROOF NOTICES.

48. Registers and receivers are directed to furnish chiefs of field divisions with copies of notices of application to make proof, noting on each application the particular project wherein the land lies. When the notice involves any lands withdrawn under the first form withdrawal authorized by the reclamation act, they will indorse on the back of the notice mailed to the chief of field division: "For report by indorsement hereon as to whether the described lands, or any of them, are needed for construction purposes." In all cases as soon as such notice is received by the chief of field division, he will refer the same to the project engineer, who will make report by indorsement on the notice as to whether the lands are needed for construction purposes and as to any other matters as he may be instructed to report on by special instructions. This notice should be returned by the engineer to the chief of field division in sufficient time to enable that officer to return the same to the local land officers prior to the date fixed for proof.

49. If the lands covered by the final proof notice were entered prior to withdrawal for reclamation purposes, and the project engineer reports that they are not needed for construction purposes, final certificate will be issued upon submission of final proof as on entries not subject to the reclamation act. In all cases where the lands are entered prior to reclamation withdrawal and the project engineer reports that they are needed for construction purposes, and in all cases where the entry was made after withdrawal of the lands for reclamation purposes, whether or not they are needed for construction purposes, the register and receiver will forward the proof, if found to be regular, to the General Land Office without issuance of final certificate.

50. If any final proof offered under this act be irregular or insufficient, the register and receiver will reject it and allow the entryman the usual right of appeal; and if the General Land Office finds any proof forwarded to be insufficient or defective in any respect, it may

than 160 acres or the maximum limit of area established by the Secretary of the Interior. Registers and receivers are accordingly instructed to be guided by the rulings of the department, as set forth above, in their action on water-right applications by corporations when presented.

TOWNSITE SUBDIVISIONS.

60. Where water-right application has been made and accepted for land in private ownership, no new water-right application by any purchaser of part of the irrigable area of such private land will be accepted for land so purchased, if the same is subdivided into lots of such form and area as to indicate a use thereof for townsite rather than for agricultural or horticultural purposes. In such case, no notation shall be made of such transfer on the original water-right application, but water will be furnished such land on the original application, and the water-right charges collected thereunder, as if no such sale or sales had been made.

61. Water for land subdivided into such form and areas as to indicate a use thereof for townsite rather than for agricultural or horticultural purposes may be procured for the entire areas so subdivided, by contract with the Reclamation Service through the proper representatives of the landowners, as authorized by the Secretary of the Interior under the acts of April 16 and June 27, 1906 (34 Stat., 116 and 519).

62. Where separate water-right applications, otherwise valid, have been accepted for lands subdivided into such form and areas as to indicate a use thereof for townsite rather than for agricultural and horticultural purposes, such water-right applications and the corresponding subscriptions to the stock of the water users' association may be surrendered and canceled, and water supplied to such lands under the provisions of the said acts of April 16 and June 27, 1906, upon such terms and conditions as will return to the Reclamation Service an amount not less than the charges due under such water-right applications. Similar adjustment by cancellation and new contract may be made where water-right application has been accepted and the land has been subsequently subdivided into tracts of form and area as above.

WATER-RIGHT APPLICATION.

63. The department has adopted three forms of applications for water rights, viz, Form A (4-021) for homesteaders who have made entries of lands withdrawn under the second form of withdrawal; Form B (4-020) for private owners of lands embraced within said project; and Form C (4-019) for Indian allottees. Copies of these forms have been furnished registers and receivers, and they will be used in all applications for water rights in any of the reclamation projects.

64. Upon notice issued by the Secretary of the Interior that the Government is ready to receive applications for water right for described lands under a particular project, all persons who have made entries of lands under the provisions of the act of June 17, 1902 (32 Stat., 388), will be required to file application for water rights on Form A for the number of acres of irrigable land in the farm unit

entered, as shown by the plats of farm units approved by the Secretary of the Interior.

65. Upon the issuance of such notice private landowners and entrymen whose entries were made prior to withdrawal may, in like manner, apply on forms B or C for water rights for tracts not containing more than 160 acres of irrigable land, according to the approved plats, unless a smaller limit has been fixed as to lands in private ownership by the Secretary of the Interior.

66. Each application on Form B or Form C must contain a statement as to the distance of the applicant's residence from the land for which a water right is desired.

67. If a greater distance than that fixed for the project is shown in any application, the case should be reported to the Commissioner of the General Land Office for special consideration upon the facts shown. If the applicant is an actual bona fide resident on the land for which water-right application is made, the clause in parentheses of Form B or Form C, regarding residence elsewhere, must be stricken out.

68. The applicant on Form B or Form C must state accurately the nature of his interest in the land. If this interest is such that it can not ripen into a fee-simple title at or before the time when the last annual installment for water right is due, the register and receiver must reject the application.

69. Form B (4-020) is intended for use by owners of private land and entrymen whose entries were made prior to the withdrawal of the land within reclamation projects in entering into contracts with the United States for the purchase of a water right, and must be signed and sealed in duplicate and acknowledged before a duly authorized officer in the manner provided by local law. A space is provided on the blank for evidence of the acknowledgment, which should be in exact conformity to that required by the statutes of the State in which the lands covered by the contract lie for the execution of mortgages or deeds of trust. When so executed both originals must be filed in the local land office together with three complete copies, either in person or by mail. If the application is regular and sufficient in all respects, duly approved by the project engineer, and bears the certificate of the secretary of the local water users' association, if there be one, and is accompanied by the proper payments required by the provisions of the public notices issued in connection with the local reclamation project, the register will accept the same by filling out the blank provided at the bottom of the third page and attach his signature and seal by placing a scroll around the word "Seal."

70. Attention is especially called to sections 3743 to 3747, inclusive, of the Revised Statutes, relative to the deposit and execution of the contract, execute the oath of disinterestedness required by section 3745, Revised Statutes, before a duly authorized officer on the blank form provided on the last page of the water-right contract. No funds are available for the payment by the Government of any fees in connection with this oath, and the register should therefore take such oath before the receiver of public moneys, who is precluded by section 3246, Revised Statutes, from charging or receiving directly or indirectly any compensation for the administering of such oath. In the event that it becomes necessary to take this oath before any

HC 2245 Application (FIP)

V. If the Secretary of the Interior has made a contract with a water users' association organized under the project, due notice thereof will be given to the registers and receivers, and applications for water rights should not be accepted in such cases unless the certificate at the end thereof has been duly executed by the said association.

77. The following rules are laid down with reference to water-right applications for land in private ownership, including entries not subject to the reclamation act:

I. Where water-right application is presented covering only part of the irrigable area of a subdivision in private ownership, not subdivided into lots and blocks for townsite purposes, the register and receiver will accept it, provided it bears the usual certificates of the project engineer and the local water users' association (where such association has been formed and contract entered into with the Secretary of the Interior).

II. In case of sale by a private owner of part of the irrigable land covered by a subsisting water-right application, the vendor, in order to have his water-right charges adjusted to the reduced acreage retained by him, will be required to present the following evidence:

(a) Certificate of the proper officer having charge of the county records, showing record of a subscription for stock in the local water users' association covering the land in question and that the land has been duly conveyed by the subscriber at a time subsequent to the recording of the stock subscription.

(b) The certificate of the local water users' association, if one has been organized on the project, under corporate seal, to the effect that proof has been presented to the association of the transfer of the land to the person named and that appropriate transfer has been made on its books of the shares of stock appurtenant to said land.

(c) The vendor should also so arrange that his vendee shall promptly make a water-right application for the irrigable land within the tract conveyed to him, and upon presentation and acceptance of such application appropriate notation of such transfer, with a reference to the new water-right application, will be made on the original or prior water-right application.

III. In case of relinquishment by an entryman, whose entry is not subject to the reclamation act, of a part of the land included in his entry, appropriate notation will be made on his water-right application, showing such relinquishment, and his charges will be reduced accordingly.

IV. Where an entryman relinquishes a part of his entry under conditions described in Rule III hereof, and the next person who enters the land so relinquished claims credit for installments paid by the first entryman, he must, at the time of such entry file with his application to enter an assignment in writing of the water-right credits of the prior entryman; also a water-right application covering the land entered.

78. In order that there may be no unnecessary delay in the obtaining of water by entrymen and landowners in reclamation projects, after they have filed water-right applications and made the required preliminary payment, the register and receiver are directed to issue in triplicate certificates of water-right applications accepted in connection with homestead entries made subject to the reclamation act. Certificate of filing water-right application will not be issued here-

after in connection with the new Form B (4-020), inasmuch as the acceptance of the contract is equivalent to such certificate. One copy of each certificate of filing water-right application issued and of each water-right contract for lands in private ownership executed will be forwarded to the applicant and one copy to the engineer in charge of the project. At the end of each month the register and receiver are to prepare a schedule, Form 4-115b, of certificates issued upon water-right applications accepted during the month, showing also contracts executed, and an abstract, Form 4-105b, of collections of charges made during the month, forwarding the original in triplicate to this office and furnishing the Director of the Reclamation Service and the project engineer with copies of each monthly schedule of certificates and abstract of collections made. Receipts made from the sale of townsite lots should be reported separately on Form 4-105 for payment into the reclamation fund as original receipts on account thereof.

79. The copies of certificates of water-right applications and contracts must be forwarded, on the day issued, to the engineer in charge of the reclamation project wherein the lands are situated, and the monthly abstract of collections must be prepared and copy forwarded to him immediately after the close of the month during which the collections were made.

80. As above indicated, prompt action is essential in these matters in order that the applicants who are entitled to water may receive same at the earliest possible moment; and any dereliction in furnishing the copies of certificates and abstracts above indicated will be considered a failure of satisfactory performance of duty.

WATER-RIGHT CHARGES.

81. The Secretary of the Interior will at the proper time, as provided in section 4 of the reclamation act, fix and announce the area of lands which may be embraced in any entry thereafter made or which may be retained in any entry theretofore made under the reclamation act; the amount of water to be furnished per annum per acre of irrigable land and the charges which shall be made per acre for the irrigable lands embraced in such entries and lands in private ownership, for the estimated cost of building the works and for operation and maintenance, and prescribe the number and amount and the dates of payment of the annual installments thereof.

82. Under the act of February 13, 1911 (36 Stats., 902) the Secretary is authorized in his discretion to withdraw any public notice issued prior to the passage of the act.

83. If any entry subject to the reclamation act of June 17, 1902 (32 Stat., 388) is canceled or relinquished, the payment for water-right charges already made and not assigned in writing to a prospective or succeeding entryman under the provisions of paragraph 85 hereof are forfeited. All water-right charges which remain unpaid are canceled by the relinquishment or cancellation of the entry, except as provided by the specific provisions of public notices applicable to particular projects.

84. Any person who thereafter enters the same land must, in the absence of an assignment in writing or public notice to the contrary, pay the water-right charges as if the land had never been previously

96. By section 5 of the act of June 27, 1906 (34 Stat., 519), it is provided that any desert-land entryman who has been or may be directly or indirectly hindered or prevented from making improvements on or from reclaiming the lands embraced in his entry, by reason of the fact that such lands have been embraced within the exterior limits of any withdrawal under the reclamation act of June 17, 1902, will be excused during the continuance of such hindrance from complying with the provisions of the desert-land laws.

97. This act applies only to persons who have been, directly or indirectly, delayed or prevented, by the creation of any reclamation project or by any withdrawal of public lands under the reclamation act, from improving or reclaiming the lands covered by their entries.

98. No entryman will be excused under this act from a compliance with all of the requirements of the desert-land law until he has filed in the local land office for the district in which his lands are situated an affidavit showing in detail all of the facts upon which he claims the right to be excused. This affidavit must show when the hindrance began, the nature, character, and extent of the same, and it must be corroborated by two disinterested persons, who can testify from their own personal knowledge.

99. The register and receiver will at once forward the application to the engineer in charge of the reclamation project under which the lands involved are located and request a report and recommendation thereon. Upon the receipt of this report the register and receiver will forward it, together with the applicant's affidavit and their recommendation, to the General Land Office, where it will receive appropriate consideration and be allowed or denied, as the circumstances may justify.

100. Inasmuch as entrymen are allowed one year after entry in which to submit the first annual proof of expenditures for the purpose of improving and reclaiming the land entered by them, the privileges of this act are not necessary in connection with annual proofs until the expiration of the years in which such proofs are due. Therefore, if at the time that annual proof is due it can not be made, on account of hindrance or delay occasioned by a withdrawal of the land for the purpose indicated in the act, the applicant will file his affidavit explaining the delay. As a rule, however, annual proofs may be made, notwithstanding the withdrawal of the land, because expenditures for various kinds of improvements are allowed as satisfactory annual proofs. Therefore an extension of time for making annual proof will not be granted unless it is made clearly to appear that the entryman has been delayed or prevented by the withdrawal from making the required improvements; and, unless he has been so hindered or prevented from making the required improvements, no application for extension of time for making final proof will be granted until after all the yearly proofs have been made.

101. An entryman will not need to invoke the privileges of this act in connection with final proof until such final proof is due, and if at that time he is unable to make the final proof of reclamation and cultivation, as required by law, and such inability is due, directly or indirectly, to the withdrawal of the land on account of a reclamation

project, the affidavit explaining the hindrance and delay should be filed in order that the entryman may be excused for such failure.

102. When the time for submitting final proof has arrived, and the entryman is unable, by reason of the withdrawal of the land, to make such proof, upon proper showing, as indicated herein, he will be excused, and the time during which it is shown that he has been hindered or delayed on account of the withdrawal of the land will not be computed in determining the time within which final proof must be made.

103. If after investigation the irrigation project has been or may be abandoned by the Government, the time for compliance with the law by the entryman will begin to run from the date of notice of such abandonment of the project and of the restoration to the public domain of the lands which had been withdrawn in connection with the project. If however, the reclamation project is carried to completion by the Government and a water supply has been made available for the land embraced in such desert-land entry, the entryman must comply with all the provisions of the act of June 17, 1902, and must relinquish all the land embraced in his entry in excess of 160 acres; and upon making final proof and complying with the terms of payment prescribed in said act of June 17, 1902, he shall be entitled to patent. The area of the entry in excess of 160 acres must be relinquished to the United States and entrymen will not be permitted to assign such excess. See departmental decision of January 20, 1912 (40 L. D., 386).

104. Special attention is called to the fact that nothing contained in the act of June 27, 1906, shall be construed to mean that a desert-land entryman who owns a water right and reclaims the land embraced in his entry must accept the conditions of the reclamation act of June 17, 1902, but he may proceed independently of the Government's plan of irrigation and acquire title to the land embraced in his desert-land entry by means of his own system of irrigation.

105. Desert-land entrymen within exterior boundaries of a reclamation project who expect to secure water from the Government must relinquish to the Government all of the lands embraced in their entries in excess of 160 acres whenever they are required to do so through the local land office, and must reclaim one-half of the irrigable area covered by their water right in the same manner as private owners of land irrigated under a reclamation project.

TOWNSITES IN RECLAMATION PROJECTS.

106. *Withdrawal, survey, appraisal, and sale.*—Townsites in connection with irrigation projects may be withdrawn and reserved by the Secretary of the Interior under the acts approved April 16 and June 27, 1906 (34 Stat., 116 (secs. 1, 2, and 3), and 519, (sec. 4)), respectively, and thereafter will be surveyed into town lots with appropriate reservations for public purposes, and will be appraised and sold from time to time in accordance with special regulations provided under section 2381, United States Revised Statutes, governing reclamation townsites.

107. *Survey and appraisal.*—Townsites under any law directing their disposition under section 2381, will be surveyed, when ordered by the department, under the supervision of this office, into urban, or